IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3412 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SURESHCHANRA KALIDAS PATEL THRU POA PATEL HITESHBHAI HASMUKH

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 3412 of 2002

MR BG JANI for Petitioner No. 1

MR VM PANCHOLI APP for Respondent No. 1

MR YV BRAHMBHATT for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 15/07/2004

ORAL JUDGEMENT

1. Having heard the learned advocates appearing for

the parties and considering the exhaustive written submissions incorporating a number of pronouncements of the Supreme Court as well as this Court tendered by Mr. BG Jani, learned advocate of the petitioner and Mr. YV Brahmbhatt, learned advocate of respondent No.2 and on having perusal of the averments made in this petition and the order dated 31.1.2002 recorded below Ex.38 in Criminal Case No. 11 of 1997 by the learned JMFC, Kalol by which respondent No.2, heir and legal representative of original complainant, has been permitted to implead him as complainant and on having fair look at the statutory provisions contained in Section 256 (2) of the Code of Criminal Procedure, this Court is of the opinion that none of the contentions advanced by Mr. Jani, learned advocate of the petitioner, deserves consideration. Hence, this petition lacks merit and deserves to be rejected.

2. For the foregoing reasons, the petition fails and accordingly it is rejected. Rule is discharged. Ad-interim relief granted stands vacated.

3. The learned Magistrate is directed to proceed with the trial of Criminal Case No.11 of 1997 and conclude the same as expeditiously as possible.

(A.M. Kapadia, J.)

(karan)